

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

BUILDING CODE APPEALS BOARD
DOCKET NO. 11-986

)
1292 Commonwealth Ave LJS LLC,)
Appellant)
)
v.)
)
City of Boston,)
Appellee)
_____)

BOARD'S DECISION ON APPEAL

Introduction

This matter came before the State Building Code Appeals Board ("Board") on Appellant's appeal application filed pursuant to G.L. c.143, §100 and 780 CMR 122.1 ("Application"). Appellant owns a 14-dwelling unit building located at 1292 Commonwealth Avenue, Boston (Allston), MA. Appellant is seeking approval of the installation of an additional fire escape ladder and platform from windows in third-floor units to connect to existing fire escape below at the subject building.

Procedural History

The Board convened a public hearing on April 19, 2011, in accordance with G.L.c. 30A, §§10 & 11; G.L.c. 143, §100; 801 CMR 1.02; and 780 CMR 122.3. All interested parties were provided with an opportunity to testify and present evidence to the Board. On or about February 11, 2011, the Boston Inspectional Services Department (for the City of Boston) issued a Building Code Refusal notice to Appellant, stating that Appellant's installation did not comply with 780 CMR 3400.4.2.3.

Discussion

Appellant made the installation to provide an additional means of egress. Appellant hired a welder, who held a City of Boston certification for welding and obtained a welding permit on or about December 17, 2010. After completing the installation, the welder applied for a balcony permit on or about January 14, 2011, which the City denied.

Appellant admitted that "part of the problem" was that the work took place *prior* to seeking and obtaining a building permit. Accordingly, Appellant sought to obtain a building permit, after the fact, as soon as possible. Appellant argued that the intent was to enhance safety, by providing a third means of egress, but, admittedly "fumbled" the process with the City.

The Board expressed concern about the installation and use of a ladder, rather than stairs, noting that the State Building Code does not allow for ladders and there was no evidence about why stairs could not have been incorporated. In addition, the Board expressed confusion about the need for a third means of egress when, presumably, the units already had two approved means of egress.

Appellant explained that the two existing means of egress are two stairways outside the entrance to the units.

Appellant explained that a tenant in a third-floor unit expressed concern that there was no fire escape from his window, while there were exterior fire escapes from the units below. Appellant also argued that, if there were a fire in the bedroom, it would be safer to escape via a window, rather than through the apartment, to the front door, then to either of the interior stairways.

The Board acknowledged Appellant's representation that the building has sprinkler fire suppression system, and is fully compliant.

Conclusion

The Board made a motion to deny the variance ("Motion"). The Motion was approved, two in favor (Semple, MacLeod), one opposed (Cirelli).



Ralph Cirelli

Douglas A. Semple, Chair

Alexander MacLeod

Any person aggrieved by a decision of the State Building Code Appeals Board may appeal to Superior Court in accordance with G.L. c.30A, §14 within 30 days of receipt of this decision.

DATED: April 27, 2011